

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEVIN B. JOHNSON,
Plaintiff,
v.
R. ROBINSON, et al.,
Defendants.

No. 2:12-cv-2400 WBS DAD P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 2, 2015, the magistrate judge filed findings and recommendations that were served on all parties and contained notice that any objections were to be filed within fourteen days. Plaintiff received an extension of time in which to file objections. The court has received his submitted objections to the findings and recommendations and considers them timely filed. Defendants Robinson and King have filed separate responses to plaintiff's objections.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed March 2, 2015, are adopted in full.

2. The motion to dismiss filed by defendants Jordan, Marton, Pulley, Ostrom, Donnelly, Fransham, Jacquez and Wilkinson (Doc. No. 26) is granted with prejudice as to all federal claims, for failure to state a claim on which relief could be granted. Fed.R.Civ.P. 12(b)(6). Their motion to dismiss is granted without prejudice as to all state law claims, pursuant to 28 U.S.C. § 1367(c)(3).

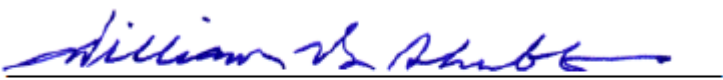
3. The motion to dismiss filed by defendant King (Doc. No. 37) is granted with prejudice as to all federal claims, for failure to state a claim on which relief could be granted. Fed.R.Civ.P. 12(b)(6). Defendant King’s motion to dismiss is granted without prejudice as to all state law claims, pursuant to 28 U.S.C. § 1367(c)(3).

4. Defendant Robinson’s motion for summary judgment (Doc. No. 53) is granted as to all federal claims due to plaintiff’s failure to exhaust administrative remedies prior to filing suit.

5. Defendant Robinson’s motion to dismiss (Doc. No. 43) is granted in part and denied in part. It is granted without prejudice as to all state law claims, pursuant to 28 U.S.C. § 1367(c)(3). Defendant Robinson’s motion to dismiss is denied as moot as to all federal claims, in light of plaintiff’s failure to exhaust administrative remedies prior to filing suit.

6. The plaintiff’s request for leave to amend his complaint, which he suggests as an alternative form of relief in his objections to the findings and recommendations (Doc. No. 61 at 103, 109-10), is denied.

Dated: June 5, 2015


WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE